

Reply to Office Action of December 31, 2009

REMARKS

Claims 1-9 and 20-21 are pending in the present application. Claims 4-5 are amended in accordance with the Examiner's suggestion. Thus, no new matter has been added. Based upon the above considerations, entry of the present amendment is respectfully requested.

In view of the following remarks, Applicants respectfully request that the Examiner withdraw all rejections and allow the currently pending claims.

Statement of the Substance of the Interview

Applicants thank the Examiner for his time during the interview on May 3, 2010. Applicants appreciate the courtesies extended to Applicants' Representative in this application. In compliance with MPEP 713.04, Applicants submit the following remarks.

The Interview Summary sufficiently summarizes the discussions during the interview. According to Applicants' understanding, the present application is in condition for allowance if claims 4-5 and the abstract are amended. These amendments are made herein. As such, Applicants believe that the claims are now in condition for allowance. In addition, the Examiner indicated that withdrawn claims 1-3 would be rejoined if an explanation was provided that explained the difference in scope between claims 1 and 4. Should the Examiner believe that there remains any outstanding issues, Applicants respectfully request that the Examiner contact Applicants' Representative so as to expedite resolution of these outstanding issues, via an Examiner's Amendment or the like.

Request for Rejoinder

Rejoinder is explained in MPEP § 821.04 as follows. Where product and process claims drawn to independent and distinct inventions are presented in the same application, Applicants may be called upon under 35 U.S.C. § 121 to elect claims to either the product or process. See MPEP § 806.05(f) or § 806.05(h). The claims to the nonelected invention will be withdrawn from further consideration under 37 C.F.R. § 1.142. See MPEP § 809.02(c) and § 821 through 821.03. However, if Applicants elect claims directed to the product and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

Reply to Office Action of December 31, 2009

Furthermore, since the USPTO examines claim 4 as a product claim, regardless of the product-by-process limitation, the process limitation in claim 4 is effectively ignored by the USPTO. Thus, claim 1, from a viewpoint of patentability at the USPTO, does further limit the product claim of claim 4.

As stated above, Applicants respectfully submit that claims 4-9 and 20-21 are allowable. As such, Applicants respectfully request the rejoinder of withdrawn claims 1-3, which ultimately depend from claim 4.

Conclusion

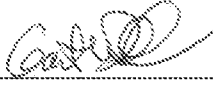
All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Craig A. McRobbie, Registration No. 42,874, at the telephone number of the undersigned below to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Director is hereby authorized in this, concurrent, and future replies to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

Dated: MAY 27 2010

Respectfully submitted,

By  **GARTH M. DAHLEN**
USPTO #43,575
Marc S. Weiner
Registration No.: 32,181
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road, Suite 100 East
P.O. Box 747
Falls Church, VA 22040-0747
703-205-8000

Attachment: Amended Abstract